

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

**IN THE MATTER OF LICENSE 7296 (APPLICATION 480)
PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF UP TO 5,000 ACRE-FEET OF WATER
FROM PLUMAS MUTUAL WATER COMPANY
TO STATE WATER CONTRACTOR AGENCIES**

**ORDER DENYING TEMPORARY CHANGE IN POINTS OF DIVERSION,
PLACE OF USE, AND PURPOSE OF USE**

SOURCES: Feather River

COUNTIES: Yuba

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF PETITION

On May 2, 2014, Plumas Mutual Water Company (PMWC) filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) a petition for Temporary Change under Water Code Section 1725, et seq. Pursuant to the petition, PMWC seeks to transfer up to 5,000 acre-feet (af) from May through October to participating State Water Contractor (SWC) Agencies. The SWC Agencies that will use the water are County of Kings, Dudley Ridge Water District, Kern County Water Agency, Napa County Flood Control & Water Conservation District, and Oak Flat Water District.

License 7296 (Application 480) authorizes the direct diversion of up to 37.3 cubic feet per second (cfs) from the Feather River between April 1 and November 1 of each year for irrigation purposes. The authorized point of diversion for License 7296 is located on the Feather River within the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, T13N, R4E, MDB&M. The authorized place of use consists of a net of 4,300 acres within the boundaries of Reclamation District No. 784.

PMWC proposes to transfer up to 5,000 af of water under License 7296 to the SWC Agencies via groundwater substitution. To facilitate this transfer, PMWC is requesting the following changes to its license: (1) add the State Water Project's Harvey O. Banks Pumping Plant and Barker Slough Pumping Plant as points of diversion, (2) add San Luis Reservoir as a point of rediversion, (3) add a portion of the service area of the State Water Project as an additional place of use, and (4) add municipal, industrial, and domestic purposes of use to PMWC's License 7296.

PMWC will make surface water available for transfer via groundwater substitution. The groundwater substitution will involve the use of groundwater pumping to produce crops within PMWC in exchange for a like amount of surface water that will remain instream for diversion at the proposed additional points of diversion. The petition states that absent the proposed temporary transfer PMWC would divert the entire quantity of surface water proposed for transfer from the Feather River pursuant to its water right.

1.1 Notice of Petition

On May 9, 2014, public notice of the petition for temporary change was provided by posting on the Division's website and via the State Water Board's LYRIS email notification system. In addition, on May 12, 2014, the Petitioner noticed the project via publication in the Appeal-Democrat newspaper and mailed the notice via first class mail to interested parties. The State Water Board received one timely comment regarding the proposed temporary change from Richard Morat.

2.0 REQUIRED FINDINGS OF FACT

2.1 Availability of Water for Transfer. Before approving a temporary change due to a transfer or exchange of water pursuant to Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change or conserved pursuant to Section 1011. (Wat. Code, §§ 1725, § 1726.). On May 27, 2014, the State Water Board mailed a *Notice of Unavailability of Water and Immediate Curtailment for Those Diverting Water in the Sacramento and San Joaquin River Watersheds with a Post-1914 Appropriative Right* to PMWC for License 7296. It states that the right holder needs to immediately stop diverting under their post-1914 water right. Since water diversion under License 7296 has been curtailed, there is no water to transfer under this basis of right.

In light of the above, I find in accordance with Water Code section 1726, subdivision (e) that the water proposed for transfer pursuant to this order would not be consumptively used in the absence of the proposed temporary change.

2.2 Alternative Mechanism to Provide Water to Transfer Water Recipients

PMWC has a water right settlement agreement with the Department of Water Resources (DWR). In accordance with the settlement agreement, when PMWC is required to cease diverting under its water right, it receives water made available to it under DWR's water rights. To facilitate the transfer, DWR intends to release water stored in Lake Oroville to PMWC, and subsequently convey the transfer water to the SWC Agencies. Release of previously stored water, and rediversion and use of released stored water, is not subject to the State Water Board's curtailment order.

DWR does not require transfer approval from the State Water Board for transfer of the water released from its facilities, provided that the transfer water is used within the SWP's currently authorized place of use. Division staff discussed the transfer with DWR staff Maureen Sergent on June 2, 2014. DWR staff confirmed that DWR will limit its conveyance of the transfer water to areas within the SWP authorized place of use. DWR anticipates that the transfer will begin no later than July 1. Based on a Biological Opinion for transfers utilizing the State and/or Federal Delta pumps, the typical water transfer period for Delta transfers is July 1 through September 30.

3.0 STATE WATER RESOURCES CONTROL BOARD DELEGATION OF AUTHORITY

On September 18, 2007, the State Water Board adopted Resolution 2007-0057, granting the authority to act on petitions for temporary change to the Deputy Director for Water Rights, except where the State Water Board holds a hearing. The State Water Board did not conduct a hearing on the petition subject to this order, and this order is adopted pursuant to the delegation of authority in Resolution 2007-0057.

4.0 CONCLUSIONS

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1727; and therefore I conclude that, based on the available evidence: The proposed transfer does not involve water that would have been consumptively used, stored, or conserved pursuant to Water Code section 1011, in the absence of the temporary change.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition submitted by PMWC under License 7296 for temporary changes in the place of use, purpose of use, and points of diversion and rediversion to authorize the transfer of up to 5,000 af of water to the SWC Agencies is denied.

This order does not change any of the existing terms and conditions of License 7296.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: JUN 10 2014